COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY

Investigation by the Department of Telecommunications and Energy on its own Motion into the Procurement of Default Service for Medium and Large Commercial and Industrial Customers	)	**D.T.E. 02-40-B**

COMMENTS OF THE DIVISION OF ENERGY RESOURCES

On April 24, 2003 the Massachusetts Department of Telecommunications and Energy ("Department") issued an Order addressing default service pricing options and procurement strategies. Procurement of Default Service, D.T.E. 02-40-B (2003). The Order announced a Technical Session to be held on May 15, 2003 in order for the Department to "better understand the logistics associated with monthly procurements" for Medium and Large Commercial and Industrial ("C & I") customers.[1]

A. Overview

The Department has clearly articulated that default service "should act as a short-term, last-resort service and not as a longer term alternative to competitive supply."[2] DOER believes that the Department's inclination to develop a process for monthly procurements for medium and large C & I customers would be a very positive step for the competitive market and for customers. The issues raised during the May 15th technical session demonstrate that the decision to commence monthly procurements is not a matter of "whether" to do so, but "how." Toward that end, DOER provides comments to address the issues DOER regards as policy considerations and matters of a logistical nature.

[1] The Department sought "comments on the appropriateness of applying monthly procurements to small C&I customers as well." (page 40, note 19).
[2] Page 118, 9 – 11.

B. Policy Issues

In its Order the Department recognized that, according to General Laws c. 164, Section 1B(d), all bids for default service "shall include payment options with rates that remain uniform for periods of up to six months." While the Department had previously interpreted this phrase to mean "at least six months," in its current Order, the Department has found it to be more appropriate to take a more flexible approach, and now views the Legislative requirement to be, not a singular time period, but rather, the upper limit on pricing options that can vary within that period, in particular, as a result of considering more frequent procurements.[3]

DOER finds nothing in existing policy or statute that prevents the Department from requiring default service procurements to happen on a monthly basis. Nor is there anything in existing policy or statute that requires the Distribution Companies ("Companies") to give customers price discovery far enough in advance of effective default service prices to allow customers to choose between competitive offers and the default service based on price.

Moving to monthly procurements is consistent with the concept that, in a robust market, default service should be available as a last resort for temporary periods while customers are between contracts. It is also compatible with and encourages the development of a competitive market. The Department aptly points out that monthly procurements could provide an efficient price signal that is market-based and would "track wholesale market prices on a monthly basis."[4] DOER believes that competitive suppliers will benefit from a monthly procurement structure because they will be able to offer customers whatever degree of price certainty those customers may care to purchase. It will also prevent customers from obtaining price certainty and stability by merely returning to default service as they do today whenever competitive market conditions are less favorable than the more dated six-month option.

C. Logistical Issues

There are a number of logistical issues the Department will need to consider when choosing how a monthly procurement of default service should be implemented. These

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[3] DTE 02-40-B at 38-39, note 18.
[4] The importance of tracking wholesale markets is something that the Department states is persuasive but not yet convincing. DTE 02-40-B at 39.

issues fit into three distinctive categories: (1) administrative burden, (2) timing, (3) impact on the smaller Distribution Companies, and (4) impact on smaller customers.[5]

First, there were some comments during the technical session that moving to monthly procurements would be more administratively burdensome for the Companies than the current procurement process.[6] DOER recognizes that the administrative costs of procurements may increase marginally due to the fact that a bidding process would be occurring six times more often than before.[7] However, DOER notes that any additional administrative expense may not necessarily result in higher prices for customers. Because monthly procurements will significantly limit migration risk and carry no market uncertainty premium[8] the prices resulting from a monthly procurement may be reduced by an amount that is equal to or greater than the procurement expenses.[9] No suppliers of default service have argued that the additional administrative burden would cause them to withhold bids. In any event, DOER believes that whatever increase in administrative costs ma be incurred will be worth the benefits of reduced gaming and enhanced competition that will likely be achieved.

Nevertheless, there were a number of comments addressing the importance of streamlining the procurement process to reduce any potential administrative burdens that warrant consideration. DOER urges the Department to consider a process that would

[5] There was also a comment made that a monthly procurement could be inconsistent with the Renewable Portfolio Standard ("RPS"). Further discussion clarified that the concern was not consistency with RPS requirements, but a logistical problem due to a trading period following so many months after the end of the contract. Pages 127, 11 – 24 and 128, 1 – 20. DOER, as the agency implementing the RPS, asserts that this logistical problem has already been addressed by National Grid in its procurements by having RPS compliance conducted by an entity other than the default service provider. D.T.E. 99-60 (March 31, 2003).

[6] Some commented that the burden of more procurements would not be a problem if they were conducted quarterly. Page 132, 16 through 133, 3; page 139, 12 – 16; and page 195, 16 through 196, 9. DOER opposes having an interim step of quarterly procurements as a temporary transition to a monthly process at some later date. DOER favors decisive action now to bring the state closer to its intended goal of letting open markets bring benefits of competition; i.e., choice, savings, and augmented services and offerings.

[7] Although even WMECO, one of the companies that raised the concern, agreed that actually implementing monthly procurements could be done with proper timing and staff. Page 132, 18 – 21.

[8] Today, default service providers must incorporate into their bids the possibility that the number of customers and amount of load in the contract may vary greatly over the six-month period of the contract. Conceivably, a one-month price with little warning would cause only migration for the following month, causing the contract to have little migration risk. As for market uncertainty risk, default service providers in a six-month contract presumably must build in some cushion in their price to hedge the risks of market conditions changing unexpectedly over the six-month period.

include the use of a standard contract or "master enabling agreement"[10] and a shorter approval time. DOER supports a process that is as expedited as possible without making it so quick that these important steps in the process are unnecessarily neglected or burdensome. DOER further addresses streamlining in the next section addressing timing issues.

Second, there were numerous comments addressing issues of timing related to moving to monthly procurements.[11]

DOER would like to specifically address the issue of giving customers advance notice of prices. While some parties value advance notice of pricing for comparison purposes, this is not needed when there is robust competition and ample opportunities for customers to engage in price discovery. Price certainty and protection from volatility are ultimately functions of an active market, which exists for most of the customers in these rate classes. Further, DOER notes that reducing the lead time also enables the price to more closely reflect market conditions for the period in which the load will be served, making it in closer synchronicity with the wholesale conditions met by competitive suppliers looking to offer energy supply to the market. However, DOER recognizes that some window may be required for the logistics of the procurements to be worked through.[12]

Another issue the DOER urges the Department to consider with respect to timing is the specifics of how the Companies will accomplish a transition to the new process at the end of their respective six-month contracts.[13] Below is the schedule for the next procurement process for each of the Companies once their current six-month contracts for default service end.

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[9] It's important to note that the Companies will be capable of collecting whatever additional costs they incur from these procurements and such collections will soon be part of the supply portion of the bill. DTE 02-40-B at 10-12.

[10] Page 166, 1 – 23.

[11] DOER expects the other parties will adequately address the important timing issues discussed at the technical session through their comments, including development of the wholesale markets, when bids should be made relative to ICAP auctions, and the staggering of RFP's.

[12] The Department should consider a process that allows bidders to have suitable time, perhaps 25 days prior to the contract begins (for ICAP market and other factors that may introduce unnecessary costs by being too close to the date a contract becomes active). Again, standardization of procedures may allow a decrease in the time it takes to approve a price once it has been filed. Page 164, 4 – 19; page 167, 12; and page 177, 12 – 15.

Distribution Company	Next Default Service RFP Process Begins	Next Default Service Contract Begins
National Grid	October 2003	November 2003
Fitchburg Gas and Electric	November 2003	December 2003
NSTAR	December 2003	January 2004
Western Mass. Electric	December 2003	January 2004

In the event that the Department chooses a start date of January 1, 2004 for monthly procurements, DOER would like to highlight the importance of the timing of the Order so that it comes far enough in advance of the next procurement to allow for the necessary implementation steps (past practice would suggest that National Grid will put its default service load out for bid on or about September 15). Among steps needed for implementation are the creation of a standard contract and any necessary changes to data collection.[14]

Third, DOER remains unconvinced by predictions that monthly procurements would result in the submission of no bids for the smaller Distribution Companies.[15] There are a number of reasons why the Department should not allow the size of the existing loads on default service from Company to Company to dictate its policy. First, a monthly procurement process will not reduce the size of the load during each contract period compared to what it is today. Only the length of the contract will be reduced; this is a far cry from breaking the contracts into blocks covering only a percentage of the load. Bidders will be moving from being one among many for a six-month contract (once every six months) to one among many for a one-month contract (six times every six months). Conducting procurements more often does not change the size of the load served in the aggregate and can result in each bidder with the best offer securing similar

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[13] The logical next step in this process would be, as the Department contemplated, the submission of implementing proposals by each of the Companies.
[14] DOER does not mean to imply that the procurements cannot go forward until these new components are completed. Rather, these are implementation pieces that should be developed in parallel with each Company proposal.
[15] DOER commented during the technical session that if the Department feels size is an issue it could consider aggregating the loads of Fitchburg and Western Massachusetts Electric. Page 180, 6 – 13. In comments filed on August 9, 2002 DOER recognized that splitting the residential class into eight blocks might warrant different treatment for the smaller utilities, but such exceptions would not be substantial enough to drive the choice for a best approach for the other utilities in the state.

amounts of load over a series of procurements. Second, there are a number of reasons other than frequency or size that could lead suppliers not to bid.[16] The Department should recognize that, in the balance of things, some bidders will prefer other solicitations due to scheduling and a variety of other factors. The Department should not be overly concerned about any and all factors that cause one or two suppliers not to bid. The Department should be convinced that the structure of the required procurement itself will cause there to be no bidders before choosing a different course for procurement. No evidence has been produced that such an outcome would occur.[17] And, third, the Department should recognize that, as has always been the case, a market growing more robust with time will ultimately cause there to be an ever smaller number of customers on default service. At some point, the Department may need to determine how to handle a size of load that is too small, potentially requiring further revisions to default service or unique treatment as necessary. DOER points out that this would be a good problem to have and will be a necessary problem to solve for any procurement method that results in a very large majority of customers getting energy supply from the competitive market.

And fourth, DOER recognizes that some of the customers in the G-2 rate class fall within 10-100 kW that some feel will have no options in the marketplace.[18] It may be wise for the Department to have the Companies report the number of the customers and load within the G-2 customer class to understand the distribution of those customers. But, DOER points out that a large number of those accounts are owned by large institutions and retail chains that have suitable options in the marketplace. Because the remaining amount of load as a percent of all G-2 and G-3 customers is anticipated to be very small and which, with the introduction of monthly procurements, will likely begin to

[16] Fitchburg Gas and Electric's ("Fitchburg") comments address this with feedback from a bidder who chose not to bid. Page 146, 22 through 147, 6. But, keeping things in context, the Fitchburg example resulted in reducing the list of bidders only by one. The Company did get other bids and the Company did not claim that the resulting price was not market-based.

[17] To the contrary, at least one of the suppliers, Constellation, had addressed this in their comment: "If you do it, we will bid." Page 171, 10-11.

[18] Associated Industries of Massachusetts supports further investigation into "what customers are affected" on the G-2 and G-3 rates and advocates for not applying a monthly procurements to those smaller customers. Page 183, 13 through 184, 1.

receive competitive offers, DOER asserts that the Department should apply monthly procurements for all G-2 and G-3 customers.[19]

D. Conclusion

DOER appreciates the opportunity to provide these comments and welcomes the Department's consideration of them within the context of the overall development of the competitive market in Massachusetts. DOER believes that the Department's implementation of a system of monthly procurements, coupled with the development of tools such as master agreements and uniform contracts, represents a significant step forward in providing incentives to provide new and sophisticated products and to continue to expand the market. DOER encourages the Department to adopt such a procurement system and looks forward to supporting and facilitating the development of such a system in an efficient and efficacious manner.

Respectfully submitted,

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[19] Constellation addresses the need for such an improvement by asserting that the Department should consider whether "it wants to perpetuate the situation that exists today" or make a move that will improve the situation. Page 173, 4-10.